

APPENDIX A

AMENDED PLAN FOR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

**AMENDED PLAN OF THE
UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA, ALL DIVISIONS,
FOR THE RANDOM SELECTION OF
GRAND AND PETIT JURORS**

This amended plan for the random selection of grand and petit jurors is adopted, subject to the approval of the Reviewing Panel of the Eleventh Circuit Judicial Council, to become effective on the date of approval.

The previous plan by this Court, dated August 30, 1982, is revoked and rescinded upon the effective date of the amended plan.

I. APPLICABILITY OF PLAN

This plan is applicable to the Northern District of Georgia which consists, by divisions, of the counties of:

1. **Atlanta Division:** Cherokee, Clayton, Cobb, DeKalb, Douglas, Fulton, Gwinnett, Henry, Newton, and Rockdale.
2. **Gainesville Division:** Banks, Barrow, Dawson, Fannin, Forsyth, Gilmer, Habersham, Hall, Jackson, Lumpkin, Pickens, Rabun, Stephens, Towns, Union, and White.
3. **Newnan Division:** Carroll, Coweta, Fayette, Haralson, Heard, Meriwether, Pike, Spalding, and Troup.
4. **Rome Division:** Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield.

The provisions of this plan apply to all divisions in the district.

II. POLICY

This plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

Section 1861--Declaration of Policy

"It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on the grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose."

Section 1862--Discrimination Prohibited

"No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status."

III. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

There shall be no jury commission in this district. The clerk of the court shall manage the jury selection process under the supervision and control of the chief judge, or such other district judge or judges as the chief judge may from time to time designate. In the event of the simultaneous absence, disability, or inability to act, of the chief judge and any other judges designated, the active district court judge who is present in the district and has been in service the greatest length of time shall be authorized to act. The use of the word "clerk" in this plan contemplates the clerk and any or all of his deputies and any other person authorized by the court to assist the clerk in the performance of functions under this plan.

IV. RANDOM SELECTION FROM VOTER LISTS AND MASTER JURY WHEELS

Voter registration lists represent a fair cross section of the community in each division of the Northern District of Georgia. Accordingly, names of grand and petit jurors serving on or after the effective date of this plan shall be selected at random from voter registration lists of all the counties in the relevant division. Should it appear that a person mailed a jury qualification form as outlined in Section V(a) has changed residence from one division of the court to another division of the court, that person's questionnaire shall be reviewed for determination of qualified status to serve as a grand or petit juror in the division in which the person currently resides. If the person is found qualified, that person's name shall be placed into the division in which the person currently resides.

The clerk shall maintain a master jury wheel or a master jury box, hereinafter referred to as master jury wheel, for the district which denotes each of the four divisions within it.

The clerk shall make the random selection of names for the master jury wheel as follows. There shall be selected from the master jury wheel for each division as a minimum approximately the following number of names:

Atlanta Division	(60,000)
Gainesville Division	(5,000)
Newnan Division	(5,000)
Rome Division	(12,000)

These numbers are as large as they are to allow for the possibility that some juror qualification forms, hereinafter mentioned, will not be returned, that some prospective jurors may be exempt by law or excused, and that some may not comply with the statutory qualifications. The Chief Judge of this district may order additional names to be placed in the master jury wheel from time to time as necessary. If the above numbers are less than one-half of one percent of the total number of registered voters for the division, the court concludes that such percentage number of names is unnecessary and cumbersome.

The clerk shall ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division. For instance, if there are 600,000 registered voters in the Atlanta Division, that number will be divided by 60,000 producing the quotient of 10. Then he shall draw

by lot a number not less than 1 and not greater than 10 and that name shall be selected from the voter registration list of each county in that division along with each 10th name thereafter. Thus, if the starting number is 8, the 8th, 18th, 28th, 38th, etc. names shall be picked from the registration list of each county of that division.

The master jury wheel shall be emptied and refilled every four years between the date of the November general election and the following September 1st.

This plan is based on the conclusion and judgment that the policy, purpose, and intent of the Jury Selection and Service Act of 1968, as amended, will be fully accomplished and implemented by the use of voter registration lists, as supplemented by the inclusion of subsequent registrants to the latest practicable date, as the source of an at random selection of prospective grand and petit jurors who represent a fair cross-section of the community. This determination is supported by all the information this court has been able to obtain after diligent effort and inquiry.

As required by the Judicial Conference of the United States, and in accordance with instructions of the Administrative Office of the United States Courts, a report will be prepared and maintained in the Jury Office of this court after each periodic refilling of the master jury wheel, on forms approved by the Judicial Conference, furnishing the required statistical sampling data relating to the refilling of the master and qualified jury wheels of the district.

V. DRAWING OF NAMES FROM THE MASTER JURY WHEEL: COMPLETING OF JURY QUALIFICATION FORM

The plan hereby incorporates the provisions of 28 U.S.C. § 1864, which reads as follows:

"(a) From time to time as directed by the district court, the clerk or a district judge shall publicly draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk . . . may, upon order of the court, prepare an alphabetical list of the names drawn The clerk . . . shall mail to every person whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk . . . by mail within ten days. If the person is unable to fill out the form another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk . .

. shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk . . . within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk . . . forthwith to appear before the clerk . . . to fill out a juror qualification form in the presence of ... the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk . . . may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than \$100 or imprisoned not more than three days or both. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$100 or imprisoned not more than three days, or both."

VI. USE OF NON-COURT PERSONNEL IN THE JUROR QUALIFICATION AND SELECTION PROCESS

The court finds that it may be necessary, or otherwise advantageous, for the Clerk to secure the services of non-court personnel to assist in the juror qualification and selection process. Such non-court personnel may include, but are not limited to:

- (1) State elections officials, and their employees, responsible for custody and maintenance of voter registration lists.
- (2) Operators of automated data processing and optical scanning facilities and their employees and/or agents.
- (3) Other administrative or clerical persons whose services may be necessary to select, process, and/or mail the various documents and records involved in the juror qualification and selection process.

If the Clerk determines that it is necessary to secure the services of such non-court personnel, the Clerk shall, at a minimum:

- (1) Issue written instructions to the individual(s) describing the operations or activities to be conducted.
- (2) Require non-court personnel to execute an affidavit, under penalty of perjury, certifying compliance with the written instructions.
- (3) Receive the written instructions and affidavit into the jury records of the Court.

VII. EXCUSES ON INDIVIDUAL REQUEST

This court finds and hereby states that jury service by members of the following occupational classes or groups of persons would entail undue hardships and extreme inconvenience to the member thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excuse will not be inconsistent with the Act and may be claimed, if desired, and shall be granted by the court upon individual request: (1) any person who has served¹ as a grand or petit juror in a federal court during the past two years immediately preceding his call to serve; (2) persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service; (3) a person who is essential to the care of aged or infirm persons; (4) all persons over 70 years of age at time of executing the jury qualification form; and (5) volunteer safety personnel (personnel who serve without compensation as fire fighters, members of a rescue squad or ambulance crew for a public agency).

The names of persons who request to be excused pursuant to category (4) (over 70) shall not be placed in the qualified wheel. The names of all other persons presenting individual excuses under this section shall be placed in the qualified wheel; such individual excuses shall be considered when said persons are actually summoned for jury service.

VIII. EXEMPTION FROM JURY SERVICE

¹ Attendance at court to serve as a prospective petit juror qualifies as service for purposes of this section.

The court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, not inconsistent with the Act, and shall be automatically granted: (1) members in active service of the armed forces of the United States; (2) members of the Fire or Police Department of any state, district, territory, possession, or subdivision thereof; (3) public officers in the executive, legislative, or judicial branches of the government of the United States or any state, district, territory, or possession or subdivision thereof who are actively engaged in the performance of official duties (public officer shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office).

The names of persons found to be exempt under this section shall not be placed in the qualified wheel.

IX. DETERMINATION OF QUALIFICATIONS, EXCUSES AND EXEMPTIONS

This plan hereby incorporates the provisions of 28 U.S.C. § 1865, as amended (Pub. L. 106-518), which reads as follows:

“(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk or jury commission, or the clerk under supervision of the court if the court’s jury selection plan so authorizes, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, or the clerk if the court’s jury selection plan so provides, shall deem any person qualified to serve on grand and petit juries in the district court unless he—

- (1) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;
- (2) is unable to read, write, and understand the English language with a

- degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (3) is unable to speak the English language;
 - (4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
 - (5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable by imprisonment for more than one year; and his civil rights have not been restored."

The names of persons found to be disqualified under subsections (b)(1)-(5) above shall not be placed in the qualified wheel.

X. DEFERMENTS

Pursuant to the provisions of the Federal Courts Improvement Act of 2000 which amends 28 U.S. Code § 1865 (a) and (b), the Clerk and/or Deputy Clerk/Jury Administrator are hereby delegated authority to receive written requests for hardship deferral from summoned jurors. The Clerk and/or Deputy Clerk/Jury Administrator are authorized to grant deferments to a date certain. The Clerk shall maintain a record of all requests for deferment and the action taken.

XI. QUALIFIED JURY WHEEL

The clerk shall also maintain one qualified jury wheel or box, hereinafter referred to as qualified jury wheel, which includes each division in the district and shall place in such wheel the names of all persons drawn at random from the master jury wheel and not disqualified, exempt, or excused pursuant to this plan. The clerk shall insure that at all times at least 300 names are contained in each such qualified jury wheel. The qualified jury wheel for the district shall be emptied when the master jury wheel for the district is emptied. The qualified wheel may be refilled in one drawing, or in increments; provided, however, that each qualified wheel must always contain no fewer than 300 names for each division.

XII. DRAWING OF AND ASSIGNMENT TO JURY PANELS

From time to time the court or the clerk, if so ordered by the court, shall publicly draw at random from the qualified jury wheel such numbers of names of persons as may be required for assignment to grand or petit jury panels, and the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel. These names may be disclosed by the clerk to parties and to the public after said list is prepared and the jurors have been summoned; provided, however, the court may at any time or from time to time order generally, or with respect to any particular term or terms of court; that these names be kept confidential in any cases where in the court's judgment the interest of justice so requires. (28 U.S.C. § 1863(b)(8)(9)).

Summoned jurors claiming individual excuses pursuant to Section VI, subcategories (1)- (3) and (5) above, shall be excused upon determination that such excuse is valid at the time the juror is summoned.

In addition, the following persons may claim individual excuses when summoned; (1) persons over 70; (2) persons for whom jury service would entail undue hardship or extreme inconvenience, consistent with the criteria set forth in 28 U.S.C. § 1869.

When a finding of undue hardship or extreme inconvenience is made upon application by a person summoned for jury service, the court will excuse such person from service for such period of time as the court deems necessary, at the conclusion of which such person shall be summoned again for jury service.

If a summoned juror has changed residence from one division of the court to another division of the court subsequent to the establishment of the division qualified jury wheel, that juror shall be excused from service in the division of original residence for such period of time as the court deems necessary. At the conclusion of that period, the person shall be summoned for jury service in the division of current residence. Jurors summoned to serve and report for service on a grand jury panel who do not request excusal shall, whenever there is an excess of jurors over the number required to impanel the grand jury, be selected for excusal by random drawing. Except as otherwise ordered by the court, said jurors shall be permanently excused from service.

Any person summoned for jury service who fails to appear as directed shall be ordered by the district court to appear forthwith and show cause for his failure to comply with the summons. Any person who fails to show good cause for noncompliance with a summons may be fined not more than \$100 or imprisoned not more than three days or both.

XIII. METHOD AND MANNER OF RANDOM SELECTION

At the clerk's option, and after consultation with the court, the selection of

names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the clerk and after consultation with the court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. Sec. 1863 (b)(3). The selections of names from the source list, the master wheel, and the qualified wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

XIV. PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME WHEN AUTOMATED DRAWING OF NAMES WILL BE MADE

Random drawings of petit and grand jury panels shall be publicly made in the office of the clerk of the court at times to be publicly announced by a posted notice, said notice to be posted in the area of the public filing desk of the clerk's office.

The office of the clerk of the court shall retain and, when requested, provide public access to the following documents:

- the court's "Juror Selection Plan," including a verbatim description of the method
used in determining the pure randomized selection process
- a verbal or graphically charted description of the procedure employed in the auto-
mated selection system,
- a copy of the court's authorization and instruction order to the person or computer
service organization which carries out automated name selection tasks for the court,
and
- a copy of the court's orders to draw jurors from both the master and qualified wheels,
a copy of required public notices, showing where and when posted, regarding the
selection of petit or grand jury panels, and copies of certifications of place and

time of drawing jury panels, by whom drawn, by whom witnessed, and number drawn.

XV. GRAND JURIES

Inasmuch as the grand juries of the Northern District of Georgia function on a district-wide basis, they shall be drawn by the court, or the clerk if so ordered by the court, by drawing a pro rata, or approximately pro rata, number of names at random from the qualified jury wheel from each division in the district and the names so drawn shall be pooled and shall constitute the grand jurors to report for duty.

Work toward implementing this plan shall begin as soon as practicable after its approval by a reviewing panel consisting of the members of the Judicial Council of the Eleventh Circuit and the chief judge of this court, or such district judge(s) as may be designated by the chief judge; and this plan shall take effect upon approval by the Reviewing Panel of the Judicial Council of the Eleventh Circuit.

UNITED STATES COURT OF APPEALS ELEVENTH JUDICIAL CIRCUIT REVIEWING PANEL, JURY PLAN

The attached Jury Plan as revised February 28, 2002, for the United States District Court for the Northern District of Georgia, having been reviewed by the Reviewing Panel of this Circuit is approved.

The following judges comprised and acted as the Reviewing Panel:

(a) Members of the Judicial Council

Chief Circuit Judge R. Lanier Anderson
Circuit Judge Gerald Bard Tjoflat
Circuit Judge J. L. Edmondson
Circuit Judge Stanley F. Birch, Jr.
Circuit Judge Joel F. Dubina
Circuit Judge Susan H. Black
Circuit Judge Ed Carnes

Circuit Judge Rosemary Barkett
Circuit Judge Frank M. Hull
Circuit Judge Stanley Marcus

(Alabama)

Chief District Judge U. W. Clemon
Chief District Judge W. Harold Albritton III
Chief District Judge Charles R. Butler, Jr.

(Florida)

Chief District Judge Roger Vinson
Chief District Judge Elizabeth A. Kovachevich
Chief District Judge William J. Zloch

(Georgia)

Chief District Judge Orinda D. Evans
Chief District Judge W. Louis Sands
Chief District Judge Dudley H. Bowen, Jr.

(b) United States District Court

(Northern District of Georgia)

Chief District Judge Orinda D. Evans

Entered for the Reviewing Panel at Atlanta, Georgia, this 3rd day of May, 2002.

/s/ Norman E. Zoller

NORMAN E. ZOLLER

Circuit Executive